

In re Patent Application of:

MARTIN HERING

Serial No. **09/705,152**

Filing Date: **11/2/2000**

Remarks

Responsive to the Examiner's request in the above-referenced Office Communication of August 25, 2005, to specifically point out supposed errors in the Examiner's action, Applicant and the undersigned respectfully ask that the following remarks and above amendment be entered in the case. The Examiner has stated that the reply filed on June 7, 2005, (received by the Office June 9, 2005) was not fully responsive to the prior Office Action of March 9, 2005 (Paper No./Mail Date 20050304). The following remarks are presented to more specifically address comments and opinions presented by the Examiner in the March 9, 2005 Office Action.

Nica '825 teaches an arm 18 comprising an arm core 56 extending partially into to the passage way and a sleeve 68 connected to the arm core (see FIG. 3). As would be seen by those skilled in the art, the sleeve extends the full length of the arm to provide an esthetic enhancement (see Column 6, Lines 27-32), and as acknowledged by the Examiner (Page 2, Paragraph 12 of the March 9, 2005 Office Action), Nica '825 is silent concerning advertising. With specific reference to FIG. 3 of Nica '825, the arm core 56 and extension piece 58 of the arm core do not block the passageway. As taught by FIG. 1, the arm 18 blocks the passage way and the sleeve 68 is added for esthetic value in covering the arm.

With regard to independent Claims 62 and 87 pending in this case, a sleeve extending less than a full length of the arm is included as a limitation to the claim. Nica

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'825 teaches the sleeve 68 extending the full length of the arm 18, or as may otherwise be viewed based on FIG.3, is indeed the arm attached to and extending from an arm core 56 shown to terminate a distance into the passage way a little more than a diameter dimension of the arm or sleeve 68.

The independent claims also include the limitation of advertising covering a substantial portion of the arm. Harrison teaches a base portion 20 and sidewalls 21 extending upwardly from and including grooves 26 for receiving the display window 27 (see Column 2, Lines 14-22).

Yet further the independent claims call for encircling a substantial portion of the arm outside surface, with a sleeve. Harrison teaches a display window 27 carried within grooves 26. While Nica does not teach nor suggest advertising. Further, a window or a transparent sleeve would defeat the teachings of Nica for providing an esthetic sheet or sleeve such as stainless steel. Yet further, there is no suggestion to combine the teachings of Nica and Harrison as suggested by the Examiner (Page 2, Paragraph 4) to enable advertisers to more prominently display advertising.

To more clearly distinguish over the Examiner's interpretation of the Nica reference as presented, independent Claims 62 and 87 have been amended to add that the sleeve encircling a substantial portion of the arm outside surface and extending less than the full length of the arm further specifies that it is the arm portion blocking the passage that is being addressed. Such an amendment should overcome the

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Examiner's interpretation of the prior art teaching of Nica and in particular to the use of the extension piece as part of the functional arm blocking the passage way.

It can only be through hindsight that the Examiner can take the position that a clear plastic with an esthetically pleasing advertising falls within the range of materials set forth by Nica '825. Further, while the Examiner states (Page 4, Paragraph 5) that it may be reasoned from knowledge generally available to one of ordinary skill in the art regarding the rational for combining and rational to modify prior art, the Applicant and the undersign would respectfully ask where (except in the mind of the Examiner now having the benefit of the teachings of the Applicant, and in the minds of competitors copying the invention as referenced in the Declarations of the inventor) is there a teaching or even a suggestion for providing an advertising method as called for in the independent claims of the application.

The Examiner states (Page 5, Paragraph 3) that establishing a long felt need requires objective evidence that an art recognized problem existed for a long period time without solution. The Applicant submits that there is no better evidence then the cost to the advertiser that the advertiser is willing to accept. The advertisers have been looking for additional effective advertising space. None have considered the advertising from a turnstile arm as presented by the invention since circa 1933, as would appear to be evidenced by the Harrison '323 reference. The Applicant has provided an effective method of advertising and one that has been shown to the Examiner as being

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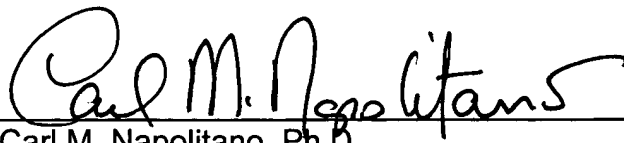
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commercially successful.

Respectfully, and for the arguments presented above, the Examiner errs in his opinion regarding the obviousness of the claimed invention and continued rejection of the claims in the case based on 35 USC § 103. Applicant submits that the above amendments and reasoned arguments place this application in a condition for allowance, and passage to issue is respectfully solicited. The Applicant and the undersigned would like to again thank the Examiner for his efforts in the examination of this application and for reconsideration of the claims as amended in light of the arguments presented. If the further prosecution of the application can be facilitated through telephone interview between the Examiner and the undersigned, the Examiner is requested to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,



Carl M. Napolitano, Ph.D.

Reg. No. 37,405

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.

255 South Orange Avenue, Suite 1401

P.O. Box 3791

Orlando, Florida 32802

(407) 841-2330

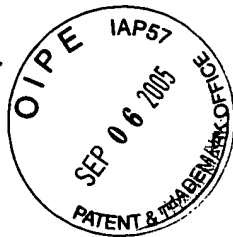
Agent for Applicant

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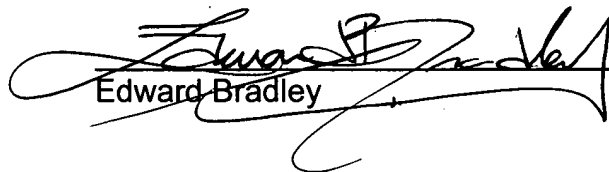
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CERTIFICATE OF MAILING

I hereby certify that the foregoing is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, this 15 day of September, 2005.


Edward Bradley